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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,809	11/30/2000	Michihiro Kaneko	Q62005	8716

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SUGHRUE, MION, ZINN, MACPEAK & SEAS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

EXAMINER

GRIER, LAURA A

ART UNIT	PAPER NUMBER
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2644

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/725,809	Applicant(s) KANEKO ET AL.	
	Examiner Laura A Grier	Art Unit 2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 23-29 is/are rejected.
- 7) ☒ Claim(s) 19-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1, 3, 5-9, 11, and 13-15** are rejected under 35 U.S.C. 102(e) as being anticipated by Brooks, Jr. et al., U. S. Patent No. 6212555.

Regarding **claims 1 and 3**, Brooks, Jr. et al., (herein, Brooks) discloses an audio transfer storage and playback system (figures 1-3). Brooks disclosure comprises a computer server (1) with music/recording libraries of prerecorded music or voice on tapes, CDs, etc., and means of recording and storing live music or voice, wherein the recorded music may be categorized as to format as classical, jazz, contemporary, rap, and others, and same for the recorded voice works (col. 3, lines 6-17), which reads on a memory for storing audio information comprising a plurality of unit information; a transmission means (5) to deliver the stored data which includes the different formats (classical, jazz, contemporary, rap, and others, and same for the recorded voice works) in which the music and voice recordings are provided for playback in an audio receiver/player device, (col. 3, lines 17-24 and col. 30-41), which reads on the transmitting device for transmitting correspondence information to an external portions; a receiver/player (6) receives the transmitted audio data with reproduction control information, which is inherent by

the fact that the audio works having been record or stored in different formats, which reads obtaining information to control the reproduction manner of the audio; and a microprocessing unit (10) or microprocessing memory system for enabling the reproduction of the audio information unit from memory (col. 3, lines 56-65), which reads on a controlling device.

Regarding **claim 5**, Brooks discloses everything claimed as applied above (see claim 1). Brooks disclose that information and/or data may be transferred and/or transmitted via telephone line connections or wireless communication transmission (col. 3, lines 33-41 and figure 3), which indicates electric communication line.

Regarding **claim 6**, Brooks discloses everything claimed as applied above (see claim 1). Brooks disclose that the information data may be record onto a record medium wherein the reproduction control information is transferred as well (col. 3, lines 6-26).

Regarding **claim 7**, Brooks, Jr. et al., (herein, Brooks) discloses an audio transfer storage and playback system (figures 1-3). Brooks disclosure comprises and receiver/player device which may be stand-alone unit for use in a home or office or a unit of an automobile (col. 3, lines 49-53), which reads on the audio information reproducing apparatus; a computer server (1) with music/recording libraries of prerecorded music or voice on tapes, CDs, etc., and means of recording and storing live music or voice, wherein the recorded music may be categorized as to format as classical, jazz, contemporary, rap, and others, and same for the recorded voice works (col. 3, lines 6-17), which reads on a memory for storing audio information comprising a plurality of unit information; a transmission means (5) to deliver the stored data which includes the different formats (classical, jazz, contemporary, rap, and others, and same for the recorded voice works) in which the music and voice recordings are provided for playback in an audio

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receiver/player device, (col. 3, lines 17-24 and col. 30-41), which reads on the transmitting device for transmitting correspondence information to an external portions; a receiver/player (6) receives the transmitted audio data with reproduction control information, which is inherent by the fact that the audio works having been record or stored in different formats, which reads obtaining information to control the reproduction manner of the audio; and a microprocessing unit (10) or microprocessing memory system for enabling the reproduction of the audio information unit from memory (col. 3, lines 56-65), which reads on a controlling device.

Regarding **claim 8**, Brooks discloses everything claimed as applied above (see claim 7). Brooks further disclose the receiver/player device which may be unit for use in an automobile (col. 3, lines 49-53), which reads on movable body being a car.

Regarding **claims 9, 11 and 16**, Brooks, Jr. et al., (herein, Brooks) discloses an audio transfer storage and playback system (figures 1-3). Brooks disclosure comprises and receiver/player device which may be stand-alone unit for use in a home or office or a unit of an automobile (col. 3, lines 49-53), which reads on the audio information reproducing apparatus; a computer server (1) with music/recording libraries of prerecorded music or voice on tapes, CDs, etc., and means of recording and storing live music or voice, wherein the recorded music may be categorized as to format as classical, jazz, contemporary, rap, and others, and same for the recorded voice works (col. 3, lines 6-17), which reads on a memory for storing audio information comprising a plurality of unit information; a transmission means (5) to deliver the stored data which includes the different formats (classical, jazz, contemporary, rap, and others, and same for the recorded voice works) in which the music and voice recordings are provided for playback in an audio receiver/player device, (col. 3, lines 17-24 and col. 30-41), which reads on the

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transmitting device for transmitting correspondence information to an external portions; a receiver/player (6) receives the transmitted audio data with reproduction control information, which is inherent by the fact that the audio works having been record or stored in different formats, which reads obtaining information to control the reproduction manner of the audio; and a microprocessing unit (10) or microprocessing memory system for enabling the reproduction of the audio information unit from memory (col. 3, lines 56-65), which reads on a controlling device; further Brooks disclose that information and/or data may be transferred to the computer server, which constitutes as generating apparatus of the audio works and reproduction control information, and to the receiver/player device via telephone line connections or wireless communication transmission (col. 3, lines 33-41 and col. 5, lines 26-30 and figure 3); and further the computer server (generating apparatus) and the receiver/player device (audio information reproducing apparatus) are separate devices (figure 3).

Regarding **claim 13**, Brooks discloses everything claimed as applied above (see claim 9). Brooks disclose that information and/or data may be transferred and/or transmitted via telephone line connections or wireless communication transmission (col. 3, lines 33-41 and figure 3), which indicates electric communication line.

Regarding **claim 14**, Brooks discloses everything claimed as applied above (see claim 9). Brooks disclose that the information data may be record onto a record medium wherein the reproduction control information is transferred as well (col. 3, lines 6-26).

Regarding **claim 15**, Brooks discloses everything claimed as applied above (see claim 9). Brooks further discloses the receiver/player device (audio information reproduction apparatus)

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which may be a unit for use in an automobile (col. 3, lines 49-53), which reads on movable body; and the computer server (generating device) which may constitutes as a personal computer.

Regarding **claim 17**, Brooks discloses everything claimed as applied above (see claim 16). Brooks' disclosure teaches that the unit information may be a music work (music composition) which inherently supports the plurality of audio information comprising at least a 1st and 2nd song, and provides identifying information of the songs via the alphanumeric information about the particular piece of music (col. 4, lines 2-6).

Regarding **claim 18**, Brooks discloses everything claimed as applied above (see claim 17). Brooks disclosure inherently indicates an order in which the songs may be reproduced based upon how the music is categorized (col. 3, lines 6-17).

Regarding **claims 23-25**, Brooks discloses everything claimed as applied above (see claim 16). Brooks' audio receiver/player device indicates the an input/output circuit with various forms of memory capabilities (col. 3, lines 46-65).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 2, 10 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks in view Ogawa et al., U. S. Patent No. 6147938.

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Regarding **claims 2, 10 and 28**, Brooks discloses everything claimed as applied above (see claim 1, 9 and 17, respectively). Brooks disclosure teaches that the unit information may be a music work (music composition) and obviously provides indication of partial music information, as evident by the fact that alphanumeric information about the particular piece of music can be provided (col. 4, lines 2-6). However, Brooks fails to specifically disclose the title of the music composition. The examiner maintains that the title of a music composition was well known.

Regarding providing a title of the music composition, Ogawa discloses a vehicle electronic audio system comprising an electronic control unit (a cassette tape, mini disk or CD), wherein the electronic control unit provides display information data such as an album title, song title, and the like of the audio being recorded (col. 15, lines 36-40), which reads on a the title of a music composition.

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Brooks by providing the title of the music piece as part of the audio information or correspondence information of the audio/music for the purpose of enabling the user to know the name or title of the audio selection being played.

5. Claims 4, 12 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks in view of Ogawa et al.

Regarding **claims 4, 12 and 29**, Brooks discloses everything claimed as applied above (see claim 1 and 9, respectively). Brooks disclosure provides a display for the display an alphanumeric information of the audio works (col. 4, lines 2-6). However, Brooks fails to

specifically disclose the title of the music composition. However, the examiner maintains that such a display providing the title of a music composition was well known.

Regarding the display providing a title of the music composition, Ogawa discloses a vehicle electronic audio system comprising an electronic control unit (a cassette tape, mini disk or CD), wherein the electronic unit comprises a display for displaying an album title, song title, and the like of the audio being recorded (col. 15, lines 36-40), which reads on a displaying the title of a music composition.

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Brooks by providing a display of the title of the music piece for the purpose of enabling the user to see the name or title of the audio selection being played.

Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks

Regarding claims 26-27, Brooks discloses everything claimed as applied above (see claim 16). However, Brooks fails to specifically disclose control information for indicating the tone of the audio to be reproduced. Control information for indicating the tone of audio is well known in the art. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Brooks by providing tone control information for the purpose of control the tone of particular songs during reproduction to a listener.

Claims 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 06/18/04, have been fully considered but they are not persuasive.

The applicant basically argues the prior art reference, Brooks, fails to disclose the transmitting device transmits the correspondence information to an external portion, and the obtaining device obtains reproduction control information, which is generated based on the transmitted correspondence. In respect to the applicant's argument, the concept of the invention is clear, however, Brooks' transmission means transmit audio data and control information to an audio receiver/player device, in which the transmission means reads on a transmitting device, and the audio receiver/player device reads on the external portion and as well the audio receiver/player device indicates the obtaining the device with it inclusion of the microprocessor and memory means. Further the claim language provides a broad interpretation and fails to limit with meaning "an external portion" and "correspondence information", thus in respect to the latter, any information transmitted or generated or provided at the time the audio was created and/or stored in the computer server and transmitted thereto can constitute as correspondence information in relation to the control information. Thus, the prior art rejection of Brooks is maintained.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A Grier whose telephone number is (703) 306-4819. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W. Isen can be reached on (703) 305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura A. Grier
September 29, 2004


XU MEI
PRIMARY EXAMINER